

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 1:19-cr-10095-JDB-1

JOHNNY LEE NIXON, JR.,

Defendant.

ORDER STRIKING DEFENDANT’S PRO SE FILING FROM THE DOCKET

Defendant, Johnny Lee Nixon, Jr., is represented in this criminal case by appointed CJA Attorney Stephen R. Leffler. On August 19, 2019, Nixon was indicted on one count of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). (Docket Entry (“D.E.”) 2.) This matter is set for a report date/suppression hearing on December 19, 2019. On November 15, 2019, Defendant filed a document entitled “Affidavit of Complaint” on his own behalf, which relates to the sufficiency of the indictment. (D.E. 21.)

“It is well settled that there is no constitutional right to hybrid representation.” *United States v. Steele*, 919 F.3d 965, 975 (6th Cir. 2019) (quoting *United States v. Cromer*, 389 F.3d 662, 681 n.1 (6th Cir. 2004)). Title 28 U.S.C. § 1654 permits parties in the federal courts to “plead and conduct their own cases personally or by counsel[.]” The Sixth Circuit has “interpreted this provision as allowing a litigant to represent himself pro se or to obtain representation -- but not both.” *United States v. Rohner*, 634 F. App’x 495, 505 (6th Cir. 2015). That is, “[t]he right to defend pro se and the right to counsel have been aptly described as two faces of the same coin, in that waiver of one constitutes a correlative assertion of the other.” *Miller v. United States*, 561 F.

App'x 485, 488 (6th Cir. 2014) (quoting *United States v. Mosely*, 810 F.2d 93, 97-98 (6th Cir. 1987)). Courts generally will not consider a defendant's pro se motion when he is represented by counsel. *United States v. Modena*, 430 F. App'x 444, 448 (6th Cir. 2011). As he is represented by able counsel, Defendant's pro se filing is hereby STRICKEN from the docket.

IT IS SO ORDERED this 20th day of November 2019.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE